

AMENDED IN SENATE MAY 3, 2004  
AMENDED IN SENATE MARCH 22, 2004

**SENATE BILL**

**No. 1566**

**Introduced by Senators Escutia and Alarcon**

February 19, 2004

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An act to amend Sections 49430, 49431, 49431.5, and 49433.7 of, and to add Section 49431.7 to, the Education Code, relating to schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 1566, as amended, Escutia. Schools: food and beverage nutrition standards.

Existing law restricts the sale of certain beverages and food items at elementary, middle, or junior high schools, with certain exceptions. Existing law makes the restrictions on the sale of food items at elementary schools operative if funding is appropriated for specified nutrition purposes.

This bill would place similar restrictions on the sale of certain beverages and food items at high schools.

The bill would delete the funding contingency applicable to elementary schools.

The bill would, in addition, revise and recast provisions relating to the sale of beverages and food items at elementary, middle, or junior high schools and make other conforming changes.

*By imposing additional duties on school districts, this bill would impose a state-mandated local program.*

*The bill would make these provisions operative commencing with the 2005–06 school year.*

Existing law requires the Superintendent of Public Instruction to reimburse school districts for certain costs associated with free and reduced price meals. Existing law requires the State Department of Education to establish a pilot program in which 10 high schools, middle schools or any combination thereof, adopt specified food sale requirements.

This bill would specify that middle schools participating in that pilot program are eligible for the reimbursement.

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 49430 of the Education Code is
- 2 amended to read:
- 3 49430. As used in this article, the following terms have the
- 4 following meanings:
- 5 (a) “Elementary school” means a public school that maintains
- 6 any grade from kindergarten to grade 6, inclusive, but no grade
- 7 higher than grade 6.
- 8 (b) “Middle or junior high school” means any public school
- 9 that maintains grade 7 or 8, 7 to 9, inclusive, or 7 to 10, inclusive.
- 10 (c) “High school” means any public school maintaining any of
- 11 grades 10 to 12, inclusive.
- 12 (d) “Full meal” means any combination of food items that
- 13 meet a USDA-approved meal pattern.
- 14 (e) “Added sweetener” means any additive other than 100
- 15 percent fruit juice that enhances the sweetness of a beverage.



1 SEC. 2. Section 49431 of the Education Code is amended to  
2 read:

3 49431. (a) ~~At~~ *Commencing with the 2005–06 school year, at*  
4 each elementary school, the sale of all foods and beverages on  
5 school grounds shall be approved for compliance with the  
6 nutrition standards in this section by the person or persons  
7 responsible for implementing these provisions as designated by  
8 the school district.

9 (b) (1) At each elementary school, the only food that may be  
10 sold to a pupil during breakfast and lunch periods is food that is  
11 sold as a full meal. This paragraph does not prohibit the sale of  
12 fruit, nonfried vegetables, legumes, or beverages as individual  
13 food items during breakfast or lunch periods if they meet the  
14 requirements set forth in this subdivision.

15 (2) An individual food item sold to a pupil during morning or  
16 afternoon breaks at an elementary school shall meet all of the  
17 following standards:

18 (A) Not more than 35 percent of its total calories shall be from  
19 fat. This subparagraph does not apply to the sale of nuts or seeds.

20 (B) Not more than 10 percent of its total calories shall be from  
21 saturated fat.

22 (C) Not more than 35 percent of its total weight shall be  
23 composed of sugar. This subparagraph does not apply to the sale  
24 of fruits or vegetables.

25 (c) Only the following beverages may be sold to a pupil at an  
26 elementary school:

27 (1) Drinking water.

28 (2) 100 percent milk, including, but not limited to, chocolate  
29 milk, soy milk, rice milk, and other similar dairy or nondairy milk.

30 (3) 100 percent fruit juices.

31 (4) Fruit-based drinks that are composed of no less than 50  
32 percent fruit juice and have no added sweeteners.

33 (d) An elementary school may permit the sale of food items or  
34 beverages that do not comply with subdivision (b) or (c) as part of  
35 a school fundraising event in any of the following circumstances:

36 (1) The items are sold by pupils of the school and the sale of  
37 those items takes place off of school premises.

38 (2) The items are sold by pupils of the school and the sale of  
39 those items takes place at least one-half hour after the end of the  
40 schoolday.

(e) Notwithstanding Article 3 (commencing with Section 33050) of Chapter 1 of Part 20, compliance with this section may not be waived.

SEC. 3. Section 49431.5 of the Education Code is amended to read:

49431.5. (a) ~~At Commencing with the 2005–06 school year,~~ at each middle or junior high school, the sale of all foods and beverages on school grounds shall be approved for compliance with the nutrition standards in this section by the person or persons responsible for implementing these provisions as designated by the school district.

(b) An individual food item sold to a pupil in a middle or junior high school shall meet all of the following standards:

(1) Not more than 35 percent of its total calories shall be from fat. ~~This subparagraph~~ *paragraph* does not apply to the sale of nuts or seeds.

(2) Not more than 10 percent of its total calories shall be from saturated fat.

(3) Not more than 35 percent of its total weight shall be composed of sugar. ~~This subparagraph~~ *paragraph* does not apply to the sale of fruits or vegetables.

(c) From one-half hour before the start of the schoolday to one-half hour after the end of the schoolday, only the following beverages may be sold to a pupil at a middle or junior high school:

(1) Drinking water.

(2) 100 percent milk, including, but not limited to, chocolate milk, soy milk, rice milk, and other similar dairy or nondairy milk.

(3) Fruit-based drinks that are composed of no less than 50 percent fruit juice and have no added sweeteners.

(4) An electrolyte replacement beverage that contains no more than 42 grams of added sweetener per 20-ounce serving.

(d) A middle or junior high school may permit the sale of food items or beverages that do not comply with subdivision (b) or (c) as part of a school fundraising event if the sale of those items meets all of the following criteria:

(1) The sale occurs during a school-sponsored event and takes place at the location of that event after the end of the schoolday.

(2) Vending machines, pupil stores, and cafeterias are not used for the sale prior to one-half hour after the end of the schoolday.

(e) Notwithstanding Article 3 (commencing with Section 33050) of Chapter 1 of Part 20, compliance with this section may not be waived.

SEC. 4. Section 49431.7 is added to the Education Code, to read:

49431.7. (a) ~~At Commencing with the 2005–06 school year,~~ at each high school, the sale of all foods and beverages on school grounds shall be approved for compliance with the nutrition standards in this section by the person or persons responsible for implementing these provisions as designated by the school district.

(b) An individual food item sold to a pupil in high school shall meet all of the following standards:

(1) Not more than 35 percent of its total calories shall be from fat. ~~This subparagraph paragraph~~ does not apply to the sale of nuts or seeds.

(2) Not more than 10 percent of its total calories shall be from saturated fat.

(3) Not more than 35 percent of its total weight shall be composed of sugar. ~~This subparagraph paragraph~~ does not apply to the sale of fruits or vegetables.

(c) From one-half hour before the start of the schoolday to one-half hour after the end of the schoolday, only the following beverages may be sold to a pupil at a high school:

(1) Drinking water.

(2) 100 percent milk, including, but not limited to, chocolate milk, soy milk, rice milk, and other similar dairy or nondairy milk.

(3) Fruit-based drinks that are composed of no less than 50 percent fruit juice and have no added sweeteners.

(4) An electrolyte replacement beverage that contains no more than 42 grams of added sweetener per 20-ounce serving.

(d) A high school may permit the sale of food items or beverages that do not comply with subdivision (b) or (c) as part of a school fundraising event if the sale of those items meets all of the following criteria:

(1) The sale occurs during a school-sponsored event and takes place at the location of that event after the end of the schoolday.

(2) Vending machines, pupil stores, and cafeterias are not used for the sale prior to one-half hour after the end of the schoolday.

(e) Notwithstanding Article 3 (commencing with Section 33050) of Chapter 1 of Part 20, compliance with this section may not be waived.

SEC. 5. Section 49433.7 of the Education Code is amended to read:

49433.7. The State Department of Education shall establish a three-year pilot program in which a total of not less than 10 high schools, middle schools, or any combination thereof, that apply are selected to participate. Although the selection process shall be random, the selection process shall be weighted so that the pilot program contains participants that, as a group, are representative of the geographic diversity of the state. The pilot program shall commence in the fall of the 2002–03 school year. Participating districts will be eligible to receive a grant pursuant to subdivision (c) of Section 49433 and an increased reimbursement rate for free and reduced price meals served at participating middle and high schools as set forth in Section 49430.5.

SEC. 6. *Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.*